IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 5TH FEBRUARY 2007 / 16TH MAGHA 1928

Crl.MC.No. 270 of 2007()

CRA.1218/2006 of SESSIONS COURT, TRIVANDRUM

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PETITIONER: PETITIONER/ACCUSED

RAJAPPAN NAIR, S/O. MADHAVAN PILLAI,
AGED 58 YEARS, WAS WORKING AS SENIOR
TECHNICIAN, APD, VSSC, ISRO-PO,
THIRUVANANTHAPURAM.

BY ADV. SRI.SABU S.KALLARAMOOLA

RESPONDENTS: RESPONDENTS/COMPLAINANT

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1. SURESH BABU,
CHALARAVILA VEEDU, MANNAMOOLA,
PEROORKADA P.O., THIRUVANANTHAPURAM.

2. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR ADV. SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 05/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.270 of 2007

Dated this the 5th day of February, 2007

ORDER

The petitioner has been found guilty, convicted and sentenced in a prosecution under Section 138 of the N.I Act. The cheque is for an amount of Rs.5 lakhs. In the appeal preferred by him, execution of the sentence has been suspended, inter alia, on condition that the petitioner deposits an amount of Rs.50,000/-. The petitioner has come to this Court with this petition under Section 482 Cr.P.C to quash the said order.

2. What is the reason ? Two reasons are urged. First of all it is contended that the quantum of amount directed to be deposited is excessive. Counsel was requested to explain the facts. There is no dispute that the appellate court has the jurisdiction under Section 389 Cr.P.C to impose conditions when it suspends the sentence. Jurisdictional competence of the appellate court is not challenged. But the discretion was not properly exercised. This is the short contention. Signature in the cheque is admitted. That there was no reply to the notice of demand is also not disputed. I am in these circumstances satisfied that the direction to deposit an amount of Rs.50,000/- cannot be faulted. There is no good reason to invoke the powers under Section 482 Cr.P.C.

3. The counsel then submits that no time has been prescribed for deposit of the amount. Two months' time may be granted to the petitioner to deposit the amount and avoid the predicament of the sentence being executed even before his appeal is taken up for consideration. I am satisfied that the said request of the petitioner can be accepted. The petitioner is granted time till 30.03.2007 to deposit the amount as directed in the impugned order. If the petitioner is unable to deposit the amount, he can, within a period of 10 days from this date, apply to the learned Sessions Judge for an expeditious out of turn disposal of his appeal itself. The learned Judge must in that event consider the said request and dispose of the appeal before 30.03.2007.

(R.BASANT, JUDGE)

rtr/-